

IN THE GRAND COURT OF THE CAYMAN ISLANDS



CAUSE NO: 57 OF 2014

IN THE MATTER OF SECTION 67 OF THE IMMIGRATION LAW (2013 REVISION)

AND: IN THE MATTER OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009 pursuant to Order 77A Rule 4 for a Declaration to prohibit the expulsion from the Cayman Islands and Damages for Discrimination

AND: IN THE MATTER OF SECTION 16 OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009

AND: IN THE MATTER OF SECTION 24 OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009

AND IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW pursuant to order 53 of the Grand Court Rules

BETWEEN: ELIZABETH FREDERICK CHAVEZ

APPLICANT

AND: CHIEF IMMIGRATION OFFICER

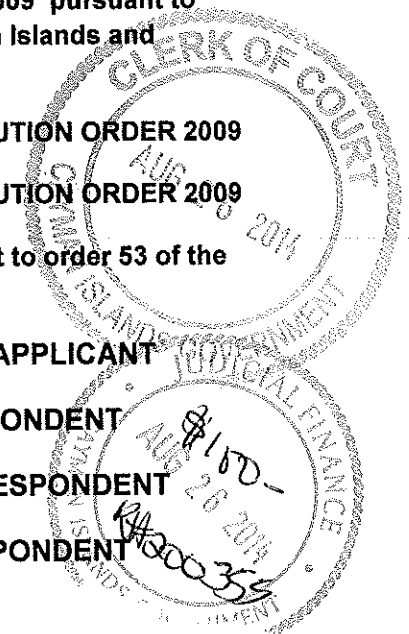
FIRST RESPONDENT

AND: IMMIGRATION APPEALS TRIBUNAL

SECOND RESPONDENT

AND: ATTORNEY GENERAL

THIRD RESPONDENT



**NOTICE OF MOTION**

TAKE NOTICE THAT the Court at the Law Courts, George Town, Grand Cayman will be moved on \_\_\_\_\_ at \_\_\_\_\_ or as soon thereafter as counsel can be heard, by counsel for THE APPLICANT for the following relief namely :-

**Decision in respect of which relief is sought:**

- (a) A Decision taken the Chief Immigration Officer Linda Evans and Customer Liason Officer Roseta Moore-Brown, to deny the Applicant a further extension of authority to remain within the Cayman Islands and to demand that she depart from the Islands by Tuesday April 15 2014.
- (b) A decision by the Immigration Appeals Tribunal dismissing the appeal of the Applicant against the refusal by the Caymanian Status and Permanent Residency Board, to grant the Applicant the Right to be Caymanian as provided for under the provisions contained in Section 22(2)(b) of the Immigration Law

**Relief Sought:**

1. An order of Mandamus under the provisions contained in GCR 77A, directing the First Respondent, whether by his/her servants, agents or any Immigration Officer, or howsoever otherwise, to refrain from any and all actions, designed to cause or effect the

removal of the Applicant from the Cayman Islands and more particularly any and all actions pursuant to section 13(2) and 13(2)(a-c) of the Cayman Islands Constitution Order 2009, unless and or until the protections afforded to the Applicant, in the provisions contained within section 13(2)(d)(iii) and 13(3)(a-d) of the said Order are observed, and this Judicial Review application is determined;

2. A Declaration that the First Respondent whether by his/her servant, agents or any Immigration Officer, or howsoever otherwise, be restrained and prohibited from any and all actions, the objective of which is the detention or removal of the Applicant, under any provision of the Immigration Law 2013 Revision, unless and or until the determination of this Judicial Review.
3. Costs and
4. Such further, consequential, or other relief as this Honourable Court seems just.

**Grounds on which relief is sought:**

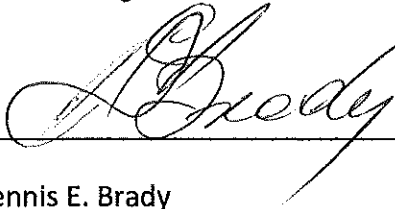
1. **Wednesbury unreasonable:** The decision of the First Respondent is Wednesbury unreasonable when they concluded that the Applicant did not qualify for an extension of her authority to remain in the Cayman Islands, there being absent from the exercise of the discretion to decide in such matters, no objective assessment, evidenced by the fact that the First Respondent is peculiarly seised of special knowledge, that the Applicant's uncle and brother are recipients of the Right to Be Caymanian, by way of the very process by which the Applicant was seeking to obtain her entitled Right to be Caymanian, thereby rendering the decision by the First Respondent as being wrong in principle and in all the circumstances, unreasonable or alternatively tainted by irrationality.
2. That the exercise of this decision by the First Respondent is invariably influenced by the decision of the Second Respondent and flies in the face of the fact that documents submitted to the Second Respondent by the Applicant, mysteriously disappeared from the file and among the several other documents submitted by the Applicant, in furtherance of her application for the Right to be Caymanian by Descent, in accordance with the provisions contained in Section 22(2)(b) of the Immigration Law 2013 Revision, which documents were re-submitted as specified and instructed by the Second Respondent, by the Applicant, and again were later deemed to be missing from the number of documents required, with the result that the Applicant was informed by the Second Respondent, that she had failed to demonstrate that she had the said Right to be Caymanian, and the Applicant is of the opinion that the latest decision by the First Respondent, in unreasonably requiring her departure from the Cayman Islands, is wrong

in principle and in all the circumstances, and is clearly a demonstration of bias, prejudice, and is discriminatory; in violation of the provisions contained in sections 16 and 24 of the Cayman Islands Constitution Order 2009.

1. **PREJUDICIAL, DISCRIMINATORY AND BIASED CONDUCT**

That the First Respondent and Second Respondents have demonstrated jointly and or severally by conduct, a definite breach of section 16 of the Cayman Islands Constitution Order 2009, by demanding that the Applicant depart the Cayman Island, in light of the fact that she has a fundamental and qualified right under section 16 of the Order and more universally under section 8 of the European Convention of Human Rights which enshrines in both, the prohibition against discrimination, as provided for more specifically in section 16(1) and (2) of the Cayman Islands Constitution Order 2009.

Dated the <sup>25</sup> ~~25~~ day of <sup>Aug</sup> ~~April~~ 2014



Dennis E. Brady

Attorney-at-Law

**TO:** The Clerk of the Court

**AND TO:** The Chief Immigration Officer

**AND TO:** The Immigration Appeals Tribunal

**AND TO:** The Attorney General

**THIS NOTICE OF MOTION** was **FILED** by Dennis Brady, Attorney-at-Law for and on behalf of the Applicants whose address for service is that of their said Attorney-at-Law, Trinity Square, Building B-3, Eastern Avenue, P.O. Box 1671, Grand Cayman KY1-1109, Cayman Islands.